

TOWARDS PRO-POOR REGULATORY GUIDELINES FOR URBAN UPGRADING
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MIKE MAJALE
mike.majale@itdg.org.uk

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Intermediate Technology Development Group (ITDG)
Schumacher Centre for Technology and Development
Bourton Hall, Bourton-on-Dunsmore
Rugby, Warwickshire CV23 9QZ
United Kingdom
Telephone: +44 (0)1926 634400 Fax: +44 (0)1926 634401
E-mail: itdg@itdg.org.uk Website: <http://www.itdg.org>



INTRODUCTION

One of the most critical issues of concern today is the growing poverty gap between the North and the South. Globalisation and deepening economic inequity have resulted in an inordinate share of poverty, insecurity, homeless and vulnerability being concentrated in the South.¹ Three poverty trends are especially notable: the feminization of poverty, the urbanization of poverty and the africanization of poverty.² The greater number of the 1.5 billion people living on 1 dollar or less a day are women,³ and the inequality between women and men living in poverty has continued to increase in the past decade (UNDPI, 2001). About one-half of the world's poor populations currently live in urban areas (90% in Latin America, 45% in Asia and 40% in Africa), and this figure is rapidly rising.⁴ Indeed, the urbanization of poverty is one of the new millennium's greatest challenges. While Africa presents the lowest rates of urbanization and urban poverty worldwide in statistical terms, it is the region where the pace and extent of urban poverty growth is the highest (Rabinovitch, 1997). Urban poverty is significantly influenced by what city or municipalities do – or do not do – as well as by what they can or cannot do.⁵

CONCEPTUAL AND DEFINITIONAL ISSUES

Shelter

The goal of the Regulatory Guidelines for Urban Upgrading project is *to increase the access of low income households and the poor to adequate, safe and secure shelter*. The concept of 'adequate shelter' adopted by the project is the same as that in *The Habitat Agenda* (UNCHS, 1997:35), which is more than simply “a roof over one's head”—it also means:

adequate privacy; adequate space; physical accessibility; adequate security; security of tenure; structural stability and durability; adequate lighting, heating and ventilation; adequate basic infrastructure, such as water-supply, sanitation and waste-management facilities; suitable environmental quality and health-related factors; and adequate and accessible location with regard to work and basic facilities: all of which should be available at an affordable cost.

Regulatory frameworks

The purpose of the Regulatory Guidelines on Urban Upgrading project is *to help local authorities and their partners to revise and design the regulatory frameworks governing the regularization and improvement of informal settlements*.

Regulatory frameworks comprise a wide spectrum of laws, including local government laws, ordinances, acts, legislation and regulations related to town planning, land development, building and public health. Established by both central and local governments and designed to apply nationally and locally, regulatory frameworks essentially set the parameters for development in general, but more specifically for the city or municipal environment.⁶ However, just as the nature of poverty varies significantly between regions, countries and cities and towns, so do the jurisdictions of local authorities and powers defined by national or local regulatory frameworks (Wegelin, 1996). And the capacity of urban poor people to take a lead in their own development is influenced significantly by regulatory and procedural processes that originate from different levels of authority (McLeod, 2001a). Many countries in the South have inherited or imported their regulatory frameworks from colonial powers or other countries in the North. Indeed, ongoing research has evinced that a substantial proportion of legislation, institutional structures, administrative procedures and professional interests in the South continues to apply urban planning approaches based on British or other colonial approaches. Imposing approaches that were designed to meet very different conditions to those with which they currently face on populations which are invariably too poor to conform to them, will almost

¹ Inequality exists not only between North and South but also within countries. Knowles and Materu (1999) assert that relative poverty in both North and South is a symptom of unsustainable development in a world that *does* have enough to go round.

² Agevi (2001), in his paper, “Standards, Procedures and Urban Poverty”, presented at the *National Workshop on Regulatory Guidelines for Urban Upgrading*, Lenana Mount Hotel, Nairobi, 8th May 2001, also raises the question of the “juvenization” of poverty.

³ According to Kothari (2001), women constitute 70 per cent of those living in absolute poverty.

⁴ According to DFID (2001), the percentage of the total population living in urban areas in Africa is expected to rise from 37 per cent in 2000 to 54 per cent by 2025.

⁵ Editors' Introduction: Towards more pro-poor local governments in urban areas, *Environment and Urbanization*, 12(1), pp. 3-11.

⁶ <http://www.local.gov.za/DCD/ledsummary/led03.html>

inevitably lead to respect for the law and official institutions in general being undermined (Payne, 2001; Tiple, 2001).

Regulations

Regulations generally comprise legal and pseudo-legal instruments, and may include policy documents, laws/legislation, by-laws, regulations (planning, building, financial, audit, etc.), procedures (procurement, design, public works, financial, audit, etc.) and standards (services and products). Lall (2001) holds that in the context of urban planning, regulations, which were originally used as tools of planned development, are more appropriately termed development standards and can be deemed to embody development plans as they are fundamental to systematic achievement of planned and organized development of human settlements. Regulations embrace all development parameters and have a bearing on master planning; zoning, land-use and plot development; space standards; and infrastructural services. They consequently have significant implications for the physical, economic, social and technological environments of poor communities. Regulations thus impact, directly or indirectly, on livelihoods of urban poor populations, and indeed, as Sohail *et al.* (2001) assert, it is hard to distinguish any that do not.

Urban development and planning regulations as applied in most countries in the South have failed to provide orderly and sustainable urban development. The result is a continued predomination of development outside planning and building regulatory frameworks and an unremitting proliferation of informal settlements.

Informal settlements

Urban poverty, deprivation, social inequality and polarization in the South, are perhaps manifested most conspicuously in the housing conditions of the urban poor majority, some of which exemplify "the worst form of struggle for the basic needs of life" (Desai and Pillai, 1991:2). These housing areas which accommodate the greater share by far of urban poor households and, almost everywhere are the only accessible form of shelter for urban poor households, are variously referred to by a host of different names, including slums, squatter settlements,⁷ and informal settlements.⁸ Besides these more familiar terms, several adjectives have been applied to distinguish these 'settlements', among them 'autonomous', 'illegal', 'irregular', 'marginal', 'provisional', 'spontaneous', 'sub-integrated', 'transitional', 'uncontrolled', 'unconventional' and 'unplanned'; they are also identified by distinctive terms peculiar to given countries and societies.⁹ While some of the appellations may be appropriate in certain contexts, they can be illusory in others. Still, the diverse nomenclature substantiates a paramount characteristic of such settlements—their extreme heterogeneity. Indeed, their lack of homogeneity underscores the need for a variety of responses from agencies seeking to address the problems associated with them (Majale, 1998).

Urban upgrading

Upgrading may be defined as "a systematic attempt to improve living conditions for people residing in informal settlements" (Tayler and Cotton, 1993:xi). At its most basic level, urban upgrading involves *improving the physical environment* of informal settlements. According to the World Bank, this includes improving and/or installing basic urban infrastructure such as water, sanitation, waste collection, storm drainage, access roads and footpaths, and street lighting. In addition, upgrading deals with regularizing *security of land tenure* and *housing* improvements, as well as improving access to *social support programmes* (e.g. health, education) and municipal services and amenities.¹⁰

⁷In the South, the term 'squatter' ordinarily refers to the illegal occupation of land, rather than of existing housing as is generally the case in the North (Main, 1991).

⁸ Informal settlements are difficult to define involving terms such lack of formal tenure, want of physical planning and type of house construction.

⁹ See, for example, *Slums in Latin America* (an extract from a United Nations Document) in Desai and Pillai (1991); Harpham *et al.* (1988); Imparato, 1996; Mangin (1967); and Palmer and Patton (1988).

¹⁰<http://wbin0018.worldbank.org/External/Urban/UrbanDev.nsf/Urban+Slums+&+Upgrading/E721470A9E68FBAF8525688E00563914?OpenDocument>. See also Sohail *et al.* (2001) for some of the main features of upgrading projects implemented in Sri Lanka and Pakistan. See also Tayler and Cotton (1993).

SUSTAINABLE LIVELIHOODS FRAMEWORK

Informal settlements, like most of the problems confronting people living in poverty in the urban South, are the outcome of failed policies; inappropriate regulatory frameworks and administrative procedures; dysfunctional land markets; unresponsive financial systems; bad governance; corruption; and a fundamental lack of political will. Each of these failures compounds the problems faced by urban poor communities and denies them the opportunity to optimize the benefits of urbanization, and also constrains the substantial potential for human development presented by urban life and the achievement of sustainable livelihoods.

Sustainable Livelihoods

Answers to questions of what are sustainable livelihoods and how can they be achieved, ideally and practically, can be drawn from several approaches. But while sustainable livelihoods may mean many things to many people, what is common between the various approaches, as noted by Roe (1998), is a call to reduce the complexity and uncertainty that gives rise to demands for sustainable livelihoods in the first place.¹¹ Sustainable livelihoods (SL) can thus be seen as a way of thinking about the objectives, scope and priorities for development, in order to enhance progress in poverty elimination.

The sustainable livelihoods approach is a holistic approach that tries to capture, and provide a means of understanding, the fundamental causes and dimensions of poverty without collapsing the focus onto just a few factors (e.g. economic issues, food security, etc.). In addition, it tries to sketch out the relationships between the different aspects (causes, manifestations) of poverty, allowing for more effective prioritisation of action at an operational level. The SL approach (or approaches – given that there is no set way of doing things) aims to help poor people achieve lasting livelihood improvements — sustainable livelihoods — measured using poverty indicators that they, themselves, define (Sustainable Livelihoods Support Office, 1999).

Most development agencies adopt the Chambers and Conway (1992:7-8) definition of livelihoods (or some slight variation on this) which holds that:

A **livelihood** comprises the capabilities, assets (stores, resources, claims and access) and activities required for a means of living: a livelihood is **sustainable** which can cope with and recover from stress and shocks, maintain or enhance its capabilities and assets, and provide sustainable livelihood opportunities for the next generation; and which contributes net benefits to other livelihoods at the local and global levels and in the long and short term.

The assets that are generally recognised within sustainable livelihoods theory, as summarized by McLeod (2001a),¹² are:

- **Natural (Environmental) Capital:** Natural resources (land, water, wildlife, biodiversity, environmental resources).
- **Physical Capital:** Basic infrastructure (water, sanitation, energy, transport, communications), housing and the means and equipment of production.
- **Human Capital:** Health, knowledge, skills, information, ability to labour.
- **Social Capital:** Social resources (relationships of trust, membership of groups, networks, access to wider institutions).
- **Financial Capital:** financial resources available (regular remittances or pensions, savings, supplies of credit).

A number of modifications to the assets categories that underpin SL theory are however suggested by McLeod (2001a), and she also proposes the addition of two new assets: institutional knowledge and

¹¹ See Carney *et al.* (1999) for a comparison of livelihood approaches of various agencies. See also CARE (1991) and McLeod (2001a).

¹² See Lowe and Schilderman (2001) for an elaboration of the "asset portfolio". And see Moser (1998) for an alternative categorization of the assets of the urban poor in terms of an "asset vulnerability framework".

institutional or political capital.¹³ Lowe and Schilderman (2001) likewise believe that information, knowledge and skills in the human asset base do not receive the prominence they warrant.¹⁴

The SL approach nevertheless offers both a conceptual and programming framework for sustainable poverty reduction. Unlike more traditional approaches that have sought to tackle poverty by identifying and addressing needs of poor people, the SL approach seeks to improve their lives by building on what they have — their assets (UNDP, 1999). As expounded by Mearns (n.d.), an SL approach:

- (i) captures the importance of the micro-level institutional context in mediating the impacts of the macro-level economic and institutional environment on the well-being of particular individuals and social groups;
- (ii) situates assets in their broader context, focusing on their contribution to realizing the livelihood outcomes of the poor; and
- (iii) encapsulates the dynamics and multiple dimensions of poverty, ill-being and deprivation (both material dimensions such as low income/ consumption levels, and non-material dimensions such as powerlessness and social exclusion).

The value of the SL approach is that it encourages a broad systematic view of the factors that cause urban poverty — whether these are adverse trends or shocks, basic lack of assets, or poorly functioning policies and institutions — and to investigate the relationship between them. The SL approach can thus be used for:

- re-assessing existing interventions and activities
- informing strategic thinking and discussion
- research
- identifying, designing and assessing new initiatives/interventions (projects and programmes)

The operational framework of the SL approach brings together various actors, including local government and municipal authorities and local communities in decision-making, and policy formulation and implementation. The SL concept and methodology seeks to bridge the gap between macro policies and micro realities (and vice versa). By employing both participatory and policy (cross-sectoral) tools, the SL approach underlines the inter-linkages between livelihood systems at the micro level and the macro policies which impact on these livelihoods (UNDP, 1999).

Sustainable Livelihoods Framework

The adoption of the Sustainable Livelihoods Framework (SLF) for the Regulatory Guidelines for Urban Upgrading (RGUU) project was made explicit in the initial proposal and at the subsequent project planning workshop (Lowe and Schilderman, 2001).¹⁵ The following regarding the SLF were observed:

- it is a useful tool for analyzing how regulations impact on the livelihoods of the poor people;
- its adoption as a research instrument will also facilitate learning as to its potential utility in understanding urban development issues;
- it can be applied at various levels of analysis, e.g., individual, household, neighbourhood or city-wide;
- the researchers will be the primary beneficiaries of the approach;
- in its present format the SLF does not give due weight to knowledge and information resources.

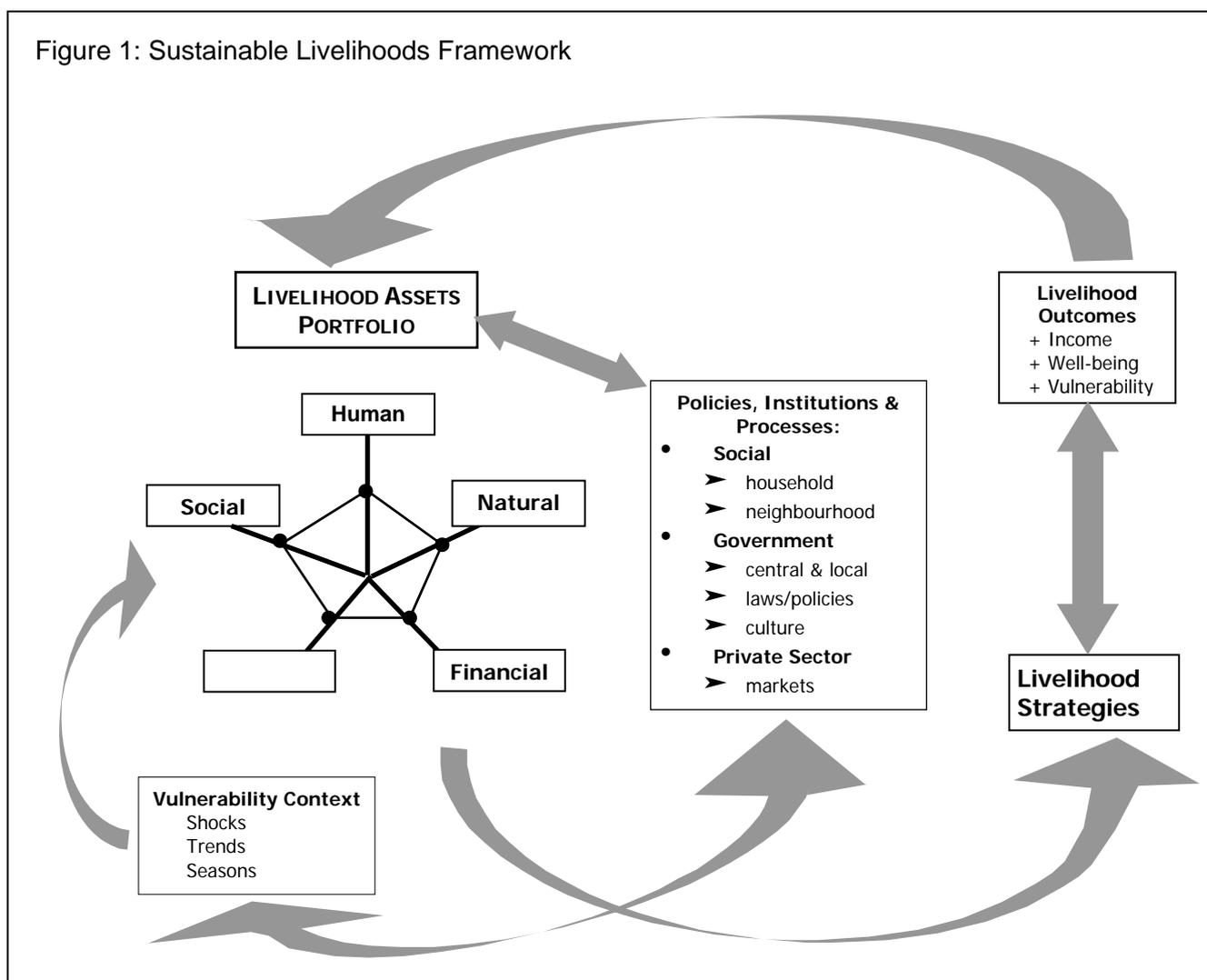
In its simplest form, the SLF views people operating in a context of vulnerability (see Figure 1). Within this context they have access to various assets or poverty reducing factors which gain their meaning

¹³ For definitions of Institutional (Political) Capital and Knowledge Capital see McLeod (2001a). This argument is supported by the asset mapping process which helped Homeless International articulate how the formation and development of institutional capital within informal settlements provides a strategic basis for negotiated partnerships between organizations of the urban poor, and both the state and formal financial institutions,

¹⁴ See also Schilderman (n.d.).

¹⁵ See also Minutes of the Joint Preparatory Workshop for the GPA and ITDG Research Projects on Regulatory Guidelines for Affordable Shelter and for Urban Upgrading, London, September 12-15, 2000.

Figure 1: Sustainable Livelihoods Framework



and value through the prevailing social, institutional and organizational environment. Livelihood strategies—the ways in which people combine and use assets in pursuit of beneficial livelihood outcomes that meet their own livelihood objectives — are also influenced by this environment. The viability and effectiveness of livelihood strategies is dependent upon the availability and accessibility of assets, services and opportunities which can be positively enhanced or adversely undermined by ecological factors, social structures or institutional processes. The SLF is able to handle the complexities of local realities, livelihood strategies and poverty outcomes, and the dynamic interrelations between them.

Livelihoods analysis is an important component within regulatory reform. Many of the researchers affirm that the SLF provides a useful conceptual base for understanding urban poverty and the situation of people living in poverty in urban settlements, and is an effective tool for analyzing the impact of regulations on their livelihoods. It can be used to analyze the coping and adaptive strategies pursued by individuals and communities as a response to external shocks and stresses such as drought, civil strife and failed policies and anti-poor regulatory frameworks.

The utility of the SL theoretical approach for the poor is however questioned by McLeod (2001a). She acknowledges the efficacy of the theory to practitioners, development agencies and scholars seeking to understand the complex dynamics of urban poverty, but underlines the ambiguity about the advantage it can offer the urban poor as a tool. There has, in fact, been scepticism about the value the theory can add “at the front line”. McLeod (2001a) maintains that the definitional process and the determination of definitional legitimacy requires further recognition and exploration within SL theory if the conceptual framework on which it is based is to become useful to organizations of the urban poor.

Policies, institutions and processes

Livelihoods are shaped by policies, institutions and processes (PIPs) at all levels — from the household to the international. These determine not only access to the various types of capital (natural, physical, human, social and financial), but also the substitutability of capitals. They determine options for livelihood strategies, as well as access to decision-making bodies and external sources of influence. Organisations, in both the public and private sectors, decide and implement policies, legislation and regulations, and undertake activities, that affect livelihoods. Processes determine the way in which institutions, and individuals, operate and interact.¹⁶

PIPs operate at all levels and in all spheres, both public and private, and they influence significantly the conditions that promote the achievement of multiple livelihood strategies and sustainable livelihoods (Bingen, 2000). PIPs also determine the degree to which an enabling or facilitating environment for livelihoods is in place, compared to an inhibiting or restrictive one (Hobley, 2001). Urban poor people are affected by the by the PIPs that regulate the built environment: "there is evidence.....that impact on the livelihoods of poor urban women and men is not sufficiently taken into account in policy formulation and implementation" (Lowe and Schilderman, 2001).

THE IMPACT OF REGULATIONS ON THE LIVELIHOODS OF THE URBAN POOR

Most regulatory frameworks in the urban South are incongruous with the realities of poor communities and are a major impediment to the achievement of sustainable livelihoods. This is largely due to the excessively high standards and complex, time consuming procedures conforming to official requirements entails. Consequently, as Payne (2001) observes, a substantial and increasing proportion of all new urban and housing development takes place outside officially sanctioned norms, which is detrimental for both the cities and urban poor dwellers who suffer most from the negative consequences.

Why Regulations

Regulations can be regarded as tools for the greater good of society (Sohail *et al.*, 2001). More specifically, urban regulations are meant to introduce an enabling and inclusive environment for the systematic growth of cities that meets the development needs of different parts of the economy and different sections of society. These intentions should be reflected in the built environment, the quality of urban services and the adaptability of the regulatory framework to changing circumstances resulting from socio-economic development (Lall, 2001). Achieving these functions requires:

- (a) A thorough understanding of city characteristics and their ramifications by the municipal authorities;
- (b) The capacity to provide services needed by different sectors of the society that comply with the regulatory framework.
- (c) The ability to recover the cost of services from the beneficiaries.

If it is to meet basic development objectives, a regulatory framework should enable access to appropriate affordable services by all urban dwellers, including the poorest, through trade-offs if necessary. If regulatory systems are not inclusive, informal sector developments and informal settlements will continue to predominate, officially approved development plans notwithstanding.

Inappropriateness of existing regulations

In many countries in the South, legal and regulatory development control requirements and frameworks for urban development are of little practical relevance to the prevailing socio-economic realities (Lall, 2001; Lowe and Schilderman, 2001; McLeod, 2001a, Payne, 2001; Tipple, 2001).¹⁷

¹⁶ See <http://www.home.asp?id=piplIntro1home.asp?id=home.asp?id=piplIntro1>. See also Lowe and Schilderman (2001) for a more comprehensive discussion on PIPs.

¹⁷ See also Yahya, S. (2001) Catalogue of Regulatory Instruments Applicable to Unplanned Settlements, prepared for the *National Workshop on Regulatory Guidelines for Urban Upgrading*, Lenana Mount Hotel, Nairobi, 8th May 2001, and a review regulations on development control in Sri Lanka (SEVANATHA, 2001).

The regulations that are in force in much of the urban South do not serve the development planning requirements of a dual economy — formal and informal — nor do they respond to the multifaceted growth characteristics of urban centres. This is clearly the case in India which adopted many of the bureaucratic and technical perspectives of its colonial past (Burra and Patel, 2001), and as a result of which the planning process has disregarded the most rapidly growing component of the urban economy — the informal sector (Lall, 2001). The most common strategy used by the informal sector in the matter of regulatory issues is to by-pass the authority in one way or another (Hermanson and Owens, 1990).

In most cases, the planning regulations and building standards in force in the urban South have been derived from contexts that bear little relationship to the realities faced by poor households. The application of British planning and building regulations in Commonwealth countries as a result of colonialism has resulted in numerous anomalies. And as McLeod (2001a:12) further observes: "In some cases.....the regulatory system seems to be of no concern to either officials or those living in informal settlements. Regulatory requirements and procedures may be seen as completely irrelevant and incomprehensible." Lall (2001) similarly questions the relevance of formal habitat regulations to the realities of the urban poor constrained to live in informal settlements.

Lowe and Schilderman (2001) similarly remark that policies, regulations and shelter legislation in most of the South are inappropriate for the urban poor. Regulatory 'obligations' set down by central and local governments are thus ignored by millions: most poor people build illegally or gradually become 'illegal' as they accommodate the rising demand for housing through informal extensions and 'upgrading'. Moreover, not only is the cost of meeting stipulated formal standards too high, the complex and costly procedures which have to be followed to achieve legality are prohibitive. The number of instances in which the population in the 'informal city' is larger than that in the 'formal city' is rapidly increasing.

The present impact of regulation on the livelihoods of poor people in urban settlements is, in general, negative and adversely affects their livelihoods (Lall, 2001; Lowe and Schilderman, 2001; Payne 2001; Tipple, 2001). As Yahya¹⁸ substantiates, planning standards, procedures and regulations more often than not impair the livelihoods of urban poor women and men for the following reasons:

- Procedures can be costly
- Regulation prevents the poor from generating income in residential areas
- Regulations often restrict the choice of materials and technologies
- Regulations favour modern technologies over indigenous technologies
- Standards and regulations are often incomprehensible to all but a few
- Knowledge and information are often difficult to access

There are thus significant costs attached to fulfilling regulations and obtaining full planning permission for infrastructure (Tipple, 2001). Moreover uniform regulatory levies create distortions and an inordinate burden for the poor, promote and sustain a dependency syndrome, and result in more resistance than compliance to regulations (Lall, 2001). And the impact of regulatory frameworks varies between different groups: for example, their impact on women living in poverty is different to that of men in the same circumstances (SEVANATHA, 2001).

Complexity of regulations

In many countries planning regulations, standards and administrative procedures are published in a language that most poor people do not understand or use terminology that is incomprehensible. Indeed, an incomplete understanding of the prevailing regulatory frameworks has, in many cases, frustrated attempts at reform.

¹⁸ Yahya, S. (2001) Inventory of existing Standards, Regulations and Procedures, presented at the *National Workshop on Regulatory Guidelines for Urban Upgrading*, Lenana Mount Hotel, Nairobi, 8th May 2001.

Access to land

Urban land tenure issues, as underlined by GPA (2001), are highly complex. It is not a subject that can be defined simply in terms of legal or illegal, formal or informal. A good majority of people, in fact, live at some point in a continuum in which they may be legitimate owners of the land but have constructed a housing in an area not zoned for residential development or they may have failed to initially conform to official regulations or procedures.

Many urban land markets in the South are dominated by a few rich and powerful individuals or groups who manipulate prices and constrain access to affordable land for the majority (Payne, 2001). Indeed, the fact that over 60 per cent of the population of Nairobi live in informal settlements occupying less than 5 per cent of the total residential land (ITDG–EA, 2001) and more than 50 per cent of the population of Mumbai are slum dwellers living on only 8 per cent of the land (Lall, 2001) points to the difficulty poor women and men have in gaining access to land in the two cities. It is also indicative of distorted and dysfunctional land markets as well as inappropriate regulatory frameworks.

Spatial requirements stipulated in urban planning regulations commonly make land development impossible for the poor. In most cases minimum plot sizes can only be afforded by the better off. Urban poor women and men are thus constrained to seeking accommodation in high density informal settlements which are located at some distance from employment opportunities thereby imposing substantial transport costs. Lall (2001) gives the example of Alwar where the high standards required by the building regulations and long list of formalities that have to be fulfilled have compelled the poor to share accommodation thereby creating even higher densities.

Given the paucity of land in urban settlements in the South, a fundamental objectives of regulation should be to facilitate access to adequate quantities of land (Lall, 2001). But the implications of a rigid regulatory framework are manifold:

- Regulations, by their very nature, are distortionary and cause increases in the price of products.
- Regulations can have a disproportionate impact on the poor.

Access to infrastructure and urban services

All city or municipal governments are obligated to provide some infrastructure and services — albeit with great variation in the extent to which they have sole responsibility, shared responsibility with higher levels of government or a supervisory and regulatory role for other service providers, including private sector or NGO providers.¹⁹

A major constraint the urban poor face in seeking to improve their livelihoods is their limited access to the full range of municipal services: water supply, sanitation, drainage, garbage collection, access roads and pathways, street lighting flood protection and public transport. Their predicament is made worse by the tendency for design and service standards to be unaffordable and not planned for incremental upgrading as poor communities become more able and willing to pay for services.²⁰ Moreover, existing procedures, rules and forms of contract governing infrastructure procurement are a major impediment to the widespread involvement of poor communities in the implementation and management of their local infrastructure, and further mitigate against community participation and management in local environmental improvement.

Access to housing

The right to adequate housing has been recognized as an important component of the right to an adequate standard of living ever since the adoption of the Universal Declaration on Human rights in 1948.²¹ But the vast majority of poor people in the urban South, including those in the present research project, have been unable to gain access to adequate housing largely owing to the

¹⁹ Editors' Introduction: Towards more pro-poor local governments in urban areas, *Environment and Urbanization*, 12(1), pp. 3-11.

²⁰ <http://www.local.gov.za/DCD/ledsummary/led03.html>

²¹ Being dependent upon specific economic, social, cultural, and environmental and factors, conditions of adequacy will inevitably vary from one country to another. Adequacy should thus be determined together with the people concerned, taking into consideration possible gradual and continuous development.

regulatory frameworks operating in the cities and towns in which they live. This has further denied them the opportunity to earn livelihoods through home-based entrepreneurial activities.

One of the most discussed issues in shelter provision in recent times has been the role of government as regulator of land transactions, land conversion and development, land-uses and construction standards and as the body responsible for defining housing and infrastructure standards. The unrealistically high standards demanded for housing plot sizes, building materials and construction, and infrastructure have put legal housing beyond the reach of the majority of households in the urban South. However, lack of regulation and standards allows land and housing developers to disregard basic standards for infrastructure and housing provision and structural stability that are necessary for health and safety, thereby compromising the well-being of the inhabitants.

Constraints on home-based enterprises

Home-based enterprises (HBEs) comprise entrepreneurial activities that take place in the home, whatever their scale. An important element is that households typically manage land use, capital and labour in order to generate income. In most cases, some, if not all, of the workers are members of the household who are involved in income-generating activities, ranging from small-scale, part-time tasks with minimal spatial demands, to manufacturing activities which may dominate the dwelling environment (Kellet and Tipple, 2000).

The use of residential space for HBEs is extremely widespread. Although they are almost always unapproved by planning authorities, HBEs can be found in between 20 and 40 per cent of properties in many cities in the South. HBEs are expected to fulfil regulations pertaining to not only housing but also employment. The former tend to focus on space standards for different room types, construction, ventilation, daylighting and fire prevention. But as fulfilling these regulations is beyond the means of the majority of urban poor dwellers, most housing is informal and is consequently unacceptable as collateral in the formal financial sector. Employment regulations relate to working conditions, safety in the workplace, work breaks, allowances, unionization, etc. (Tipple, 2001).

Regulatory constraints on HBEs perpetuate the informality of employment opportunities open to urban poor men and women, discourage asset accumulation and access to credit, and increase the vulnerability of workers (GUO, n.d.). And policy makers and commentators have been highly critical of HBEs for manifold reasons, including the fact that HBE workers toil under appalling conditions and are exploited by the HBE owners, who in turn are often exploited by middlemen and factories (Singh and Kowale, 2000; Kellet and Tipple, 2000). HBEs do pose environmental threats (Hardoy, *et al.*, 1992), but these are not as serious as drafters of regulations may have feared (Tipple, 2000).²² But it is the non-compliance to regulations that gives HBEs and other informal sector activities their competitive edge over formal sector enterprises which have to bear heavy overhead costs as a result of regulatory compliance (Tipple, 2001).

Recent research into how low-income households initiate extensions to existing dwellings, and how they utilize space for HBEs, demonstrates clearly the difference between the intentions of policy-makers and designers and the needs and priorities of the occupants. It further proves that changes made by occupants of housing which contravene current regulations do not necessarily constitute rampant disorder but rather "a shifting of the boundaries of acceptability in a people-ward direction" (Tipple, 2001:3).

Access to credit and finance

Access to credit in the formal financial sector is one of the biggest problems facing urban poor women and men in the South, largely owing to prevailing fiscal and regulatory frameworks. In the North, households generally obtain credit, against individual guarantees, from commercial sources that base their loan decisions on readily available information on borrowers' credit risk. But households in the South typically do not have acceptable guarantee mechanisms, such as non-real estate based

²² See also Napier *et al.* (2000).

collateral. This situation, coupled with the overall lack of information about their credit worthiness, contributes to a virtual exclusion of urban poor women and men from formal credit markets (van Bastelaer, 2000). The situation is exacerbated by regulatory frameworks that constrain financial institutions in lending to the poor (McLeod, 2001a).

The tendency to risk aversion of formal financial institutions, in particular when it comes to lending to the poor or to the organizations of which they are members, is elaborated by McLeod (2001a). If they are ill-disposed to lending to poor customers with unknown creditworthiness and no banking experience, financial institutions may resort to planning and building regulations in order to avoid doing so. Tenure requirements can be especially onerous with stipulations for clear title rather than for verification of alternative forms of secure title. Compliance to tenure requirements for housing finance on which many formal financial institutions insist is virtually impossible in densely populated urban areas and informal settlements. Banks and housing finance institutions may also demand evidence of building to stipulated design and material specifications which poor urban dwellers are unlikely to be able to afford.

Being illegible for credit and finance in the formal sector, urban poor women and men have been compelled to create and develop alternative ways of accessing credit and finance.²³ And "informal" finance has funded the greater proportion by far of housing in the urban South. Indeed, it is the financing behind the daily creation and maintenance of informal settlements (McLeod, 2001a).

COUNTRY EXPERIENCE RELATED TO THE REVISION AND DESIGN OF REGULATORY GUIDELINES FOR URBAN UPGRADING

In the 1980s, it was realized that inappropriate government controls and regulations discourage and distort the scale and vitality of individual, household and community investments and activities that are essential for healthy and prosperous urban development. But it is also recognized that without controls and regulations, individuals, communities and enterprises can impose their externalities on others. Precluding this is one of the principal tasks of governance (UNCHS, 1996a).

Pro-poor regulations

The need to recognize existing urban characteristics and the potential of small and medium-sized towns with respect to, *inter alia*, informal sector economic activities and informal housing in comprehensive planning is mentioned for the first time in India in the latest Guidelines on Urban Development Plans Formulation and Implementation.²⁴ A number of pro-poor regulations and standards have been introduced in India to facilitate the process of integrating the illegal and other habitats of the urban poor into the mainstream economy. The introduction of a revised minimum standard of housing for urban poor families was one such endeavour. And the emphasis on inclusive policies and strategies for informal economic activities, informal housing, slum upgradation and resettlement is indicative of the impending role of promotion rather than control of the informal sector in city planning. (Lall, 2001).

Simplicity and flexibility are key factors in making regulatory frameworks more pro-poor and removing constraints to the improvement of informal settlements and achievement of sustainable livelihoods by urban poor women and men..

Redefinition and transformation of roles among stakeholders

Poor people should become "pro-active subjects of development" rather than "objects of the plans and aspirations of others" (McLeod, 2001a). Such was the case in the Mumbai Urban Transport Project (MUTP) where there was a redefinition and transformation of roles between government, NGOs and CBOs. The government became a facilitator rather than a provider; and the community

²³ See van Bastelaer (2000) for a comprehensive exposition on different of credit arrangements targeted at the poor that rely on social ties and interactions as part of the design and implementation of their delivery and enforcement mechanisms.

²⁴ Vol. 1, Ministry of Urban Affairs and Environment, Government of India, August 1996.

was actively involved in identifying and moving to the new site, as well as in designing and constructing the houses (Burra and Patel, 2001).

Dialogue

Different points of view and unwillingness to compromise can sometimes prevent a common ground or militate against an “overlapping consensus”, as was the case in Mumbai, where a national park was given preference over the housing needs of the urban poor. Environmental concerns have similarly been pitted against poor people’s housing needs with the Coastal Region Zones (CRZs) in Mumbai (Burra and Patel, 2001).

Dialogue and discussion, negotiation and interaction between poor communities and the authorities and international agencies such as the World Bank can bring about change in norms and standards of policy so that they become more inclusive, as illustrated in the paper by Burra and Patel (2001).

Partnerships

Public-private partnerships in infrastructure provision have made considerable progress, although success is largely dependent upon the effectiveness of the regulatory authority and good relations between the implementing agency and local communities (Payne, 2001).

Strategic alliances

The SPARC/NSDF/MM alliance in India advocates pro-poor reform of policies, procedures, and legislative and regulatory frameworks.²⁵ The ideological position of the alliance is that of ‘critical engagement’: they thus include poor communities with whom they work in discourse with various institutions, including public, private and international agencies (e.g., the World Bank). Recognizing the influence these institutions have, the alliance seeks to forge partnerships that will facilitate access by the urban poor to land, infrastructure and housing finance at affordable rates. In the process, there must be a change in roles and relationships among the various stakeholders to allow community participation and control. As McLeod (2001a:5) stresses: “It is the capacity of organizations of the urban poor to tangibly redefine the poverty and development debate in urban areas that determines how effective ‘city-community’ partnerships will be in eliminating poverty.”

Precedent setting

The establishment of precedents is always helpful in national or international bureaucracies. The Mumbai Urban Transport Project described by Burra and Patel (2001) was able to overcome World Bank opposition to implementation of one of its components — dwelling units that in the opinion of the Bank were inadequate in size. In addition, the Bank also modified some of its procedures. And at the municipal level, the SPARC/NSDF/MM alliance was able to change the process through which sanitation is provided in slums and secure the active participation of poor local communities in the design, construction and maintenance of toilet blocks through an innovate pilot scheme (Burra and Patel, 2001).

When organizations of the poor take responsibility in ways such as the above, they are able to do so because they have “done their homework”.²⁶ They invest time and knowledge in creating a knowledge base about their own communities which is essential for any significant level of planning and improvements to take place. They have also invested in constructing precedent setting alternatives that can provide models for future scaling up. If the planning of urban upgrading initiatives ignores such levels of investment by the urban poor, the potential for strengthening the asset base of the poor and for leveraging that base will remain severely constrained (McLeod, 2001a).

²⁵ See Burra and Patel (2001) for details about the SPARC/NSDF/MM strategic alliance.

²⁶ Celine D’Cruz, cited in McLeod (2001a:16).

Relaxation of regulations

By relaxing the application of regulatory guidelines, some countries have enabled both the indigenous urban poor and rural-urban migrants to access land, shelter and services on favourable terms. In Kenya, a number of projects have incorporated relaxed planning, building and engineering standards which has facilitated faster completion and consolidation.²⁷ Adusumilli (2001) gives the example of Hyderabad City where norms have been relaxed to expedite new housing development for the poor and minimum plot sizes have been modified to facilitate upgrading interventions in existing slums. Tipple (2001) also presents the case of the Delhi Development Authority in India, one of the largest developers of housing in the world, that has taken a number of steps to revise attitudes towards the numerous extensions to existing buildings that have disregarded the existing regulatory framework and has relaxed regulations.

Payne (2001) however warns that, while enabling poor people to attain wealth, *ad hoc* planning and development can also have disastrous consequences, as was evidenced when an earthquake destroyed apartment blocks built on plots which poor households in Turkey had sold to developers for gain. This raises the question of what aspects of urban development and housing should be enforced and what should be left to the determination of the developers or users.

Access to land

Access to land and legal security of tenure are strategic prerequisites for the provision of adequate shelter for all and for the development of sustainable human settlements in urban areas (UNCHS, 1997). Lack of access to land is a major impediment to the meaningful participation of poor men and women in the urban economy and the achievement of sustainable livelihoods.

In the case of Mumbai, government officials have constantly maintained that there is no land available in the city for the development of housing for urban poor households. But the ladies of Mahila Milan (MM) have been able to identify suitable vacant parcels of land on which the urban poor have subsequently been able to construct dwellings (Burra and Patel, 2001).

Regularization of informal settlements

Several state initiatives have aimed to regularize informal settlements.²⁸ But recognition of informal settlements and regularization of land tenure are still resisted by landowners, conservative authorities and vested interests in much of the urban South. An increasing number of urban authorities are however successfully changing attitudes (Imparato, 1996). For example, in Alwar, India, the official policy of the state and local authorities has been “to regularize settlements of the poor without regular tenure” (Lall, 2001:12). The first step in this respect, which has been in practice for the last decade, is infrastructure interventions. An ownership title for the land, *Patta*, that will be provided on joint ownership basis owing to socio-economic compulsions, has however recently been introduced (late 1999). The results of such pro-active initiatives point the way and convince others to do more.

The costs of regularizing tenure in informal settlements can however be excessive. The example is given of Andhra Pradesh in India, where it was found that the cost of regularization initiated by the poor themselves would be equivalent to the cost of building a permanent home (McLeod, 2001a).

Double standards / two-tier system

The revision of some regulations in Sri Lanka in 1986 which allowed “special project areas” effectively permitted dual standards (SEVANATHA, 2001).

Community management

Community involvement in urban upgrading, particularly in deciding objective and priorities, is essential if there are to be lasting benefits. Tayler and Cotton (1993) distinguish between two basic

²⁷ Agevi, E. (2001) Standards, Procedures and Urban Poverty, presented at the *National Workshop on Regulatory Guidelines for Urban Upgrading*, Lenana Mount Hotel, Nairobi, 8th May 2001.

²⁸ See current thinking on standards development and review in Yahya *et al* (2001).

approaches to community involvement in upgrading interventions: *community participation* and *community management*. In the former, control of upgrading remains with the appropriate government authorities. The latter is a more radical approach which devolves power and responsibilities to the community. Local communities are thus responsible for the management of upgrading work and subsequent operation and maintenance tasks.

In recent years there have been several attempts to award upgrading contracts to communities. These can however be frustrated by the fact that organizations of the urban poor seldom meets the criteria required in procurement procedures of local authorities, municipalities, regional development banks or bi-lateral or multi-lateral funders. There are, however, a number of examples of successful community partnered procurement (Sohail *et al.*, 2001) and maintenance contracts being awarded to urban poor organizations. A good example of the latter can be found in Pune, India, where the capital costs for land and construction of toilet blocks were met by the city authorities and organizations of the urban poor took full responsibility for their management and maintenance over a thirty year period.

Access to credit

The asset mapping process, which emerged from work in India with the Society for the Promotion of Area Resource Centres (SPARC) and the National Slum Dwellers Federation (NSDF), has helped Homeless International explore the options that exist for risk management and mitigation within in informal settlements, in particular with respect to negotiated partnerships between organizations of the urban poor and the formal financial sector.²⁹ The process has been found to be especially useful in developing arguments for alternative forms of credit assessment by financial institutions considering lending for community driven infrastructure and housing investments (McLeod, 2001a).

The founding of the HUDCO NGO Credit Line, following insistent efforts by the SPARC/NSDF/MM alliance and other NGOs, represents a milestone for the urban poor and their champions. Norms and standards and established practice meant that urban poor men and women in Mumbai were unable to access housing finance at an affordable cost until HUDCO began its innovative scheme (Burra and Patel, 2001).

Knowledge and information

Urban area information is needed to give context to the local issues in the community. In this regard, informal networks and acquaintances have been identified in several contexts as key sources of livelihoods knowledge and information. Linking the diverse of urban poor women and men with government, city and municipal officials, private sector professionals and NGOs has enabled them to access the skills required to comply with regulatory processes and requirements. Lowe and Schilderman (2001) illustrate this point well with the example of a series of participatory design workshops, the outcome of which was the expedited approval of housing and small commercial business premises in a number of informal settlements in Nakuru, Kenya, which not only reduced the time taken to obtain building permission but also reduced costs.

EMERGING THEMES AND WAYS FORWARD

The enabling process and appropriate regulatory standards

The key concept of the Habitat Agenda, as Tipple (2001) observes, is that of enabling:

...of governments' stepping back...[and setting] in place a regulatory context in which urban development can be sustainable and of the scale required for all to be adequately housed. This inevitably means a reduction of standards so that they are realistic.

²⁹ See McLeod (2001b) for an identification of fifteen areas of risk that alliance of the urban poor and NGOs must manage and mitigate in seeking to create safe and secure shelter in partnership with the state and with financing from the formal financial sector.

The Habitat Agenda underscores the changing role of Governments at all levels, including local authorities, from that of “regulator” to that of “facilitator and creator of enabling regulatory environments”. Indeed, despite it being invariably more attractive to develop land exclusively for more affluent clients than for lower-income groups, there are numerous instances where developers have been willing to go ‘down-market’ if the regulatory framework has enabled them to do so on a financially viable basis (Payne, 1999a). Many of the municipal actions discussed above and hereafter are facilitating and enabling in nature, and do not require very significant investment in resources.

The potential positive implications of an enabling regulatory environment for the options of urban poor households are summarized by Lowe and Schilderman (2001:29) in terms of the following livelihood outcomes:

- ◆ A raise in income levels due to facilitative regulations which enhance economic activity and investment in the physical asset base, permit income generation from rental and HBEs, in generating acceptance among the formal financial institutions of the informal increasing access to financial capital and fungible assets.³⁰ Security of tenure³¹ is critical in the ability of poor people to maintain their ownership in the face of encroaching urban trends and hazards.
- ◆ Enhanced well-being due to increased mental and physical health resulting from qualitatively improved, incrementally built housing applying technical standards which reflect basic needs and local livelihood priorities.
- ◆ Enhanced social capital through increased interaction with a range of local public sector organizations providing information, adequate and affordable housing and basic services.
- ◆ Improved equity; the status and livelihood options available to women or at least a reduction in the amount of discrimination they endure.
- ◆ Reduced vulnerability from economic and physical hazards through appropriate mitigation of the most significant shocks and trends.

Elimination of exclusionary regulations

Non-inclusive regulatory systems encourage development of alternative systems, including illegal ones, which may not only be costly for urban authorities, but also be against the development interests of urban poor communities (Lall, 2001). If the quality of life of urban poor households living in informal settlements is to be bettered, and their physical and social integration into their urban surroundings improved, it is imperative that discriminatory and exclusionary regulations are eliminated.

To remove impediments and eradicate discrimination in the provision of shelter and basic urban services, Governments at the appropriate levels should review and revise legal, fiscal and regulatory frameworks that act as constraints within the shelter and infrastructure sectors.

Double standards / two-tier system

A two-tier system, resulting from the targeting of specific settlements or parts of cities and towns, rather than urban areas as a whole, has been seen as a possibility in Kenya (ITDG–EA, 2001). Lall (2001) similarly suggests that a two-tier system incorporating the concept of incremental development, may be the only way of making standards affordable to the urban poor in Alwar, India.

Self-regulation

Local authorities currently attempt to control everything within their jurisdiction — and invariably end up controlling very little of anything, remaining only in control of selected developments (Payne, 2001; Tipple, 2001). Payne (2001) thus contends that almost everything not directly concerned with public health, safety and well-being can be left to local self-regulation, expounding that matters primarily affecting plot-holders and their immediate neighbours can be resolved through self-regulation within the community. He gives the example of Ankara, Turkey, where residents report anyone considered

³⁰ See Kellet and Tipple (2000) for a discussion on “fungibility” of assets.

³¹ <http://www.unchcs.org/tenure/>

to be carrying out inappropriate development to the municipal authorities who then either enforce or relax relevant regulations as they see fit. Such flexibility places the community in control as far as regulatory guidelines are concerned and reduces pressure on local authorities.

Tipple (2001) believes that self regulation will work in many cases but suggests that there should be a local body responsible for overseeing the process to preclude exploitation of the weak by more powerful forces.

Equity

Central to the development of equitable and sustainable tenure systems and enhancing the livelihoods opportunities of the poor is the gender issue. Statutory as well as customary tenure traditions commonly discriminate against women so that they are not able to gain access to land and shelter on equal terms with men: this despite their generally higher level of credit-worthiness (Payne, 2001).

In India, revised guidelines required that houses constructed by the Andhra Pradesh State Housing Corporation be allotted in the name of women beneficiaries wherever feasible (Adusumilli, 2001).

Decentralization

The present world-wide trend towards decentralization (i.e., devolution of responsibilities and resources from central to local governments)³² underscores the importance of developing a policy framework for urban poverty reduction at municipal level (Wegelin, 1996). Compared to earlier undertaking, the recent course towards decentralization has gone further to give discretionary authority to local governments, bound only by broad national policy guidelines, their own human, financial and materials capacities, and the physical environment in which they must operate (Materu *et al.*, 2000). Support is being provided to political, administrative and fiscal decentralization which is meant to lead to motivation, responsiveness, transparency, accountability, participation and even-handedness in the performance of agencies that can positively influence the livelihoods prospects and opportunities (Hobley, 2001). But decentralization, de-concentration or devolution policies are by no means development panaceas.³³ As such, decentralization increasingly incorporates a shift in responsibility for urban development and regulation towards the local-government level. Community participation is essential if municipal interventions in urban poverty are to be effective (Wegelin, 1996).

Participation

The growing acceptance of decentralized governance practices demands participatory approaches whereby every inhabitant of a municipality is seen as a stakeholder in the urban development process. Indeed, given the realities of the existence of the urban poor and their supportive role in the growth of city economies, a pro-poor and proactive development approach is imperative (Lall, 2001). Regulatory frameworks and socio-economic and spatial plans should be so designed that they not only address the concerns of the urban poor but also create space for them to develop.

Participatory methodologies represent a wide continuum of potential involvement by stakeholders and beneficiaries. These range from having the poor 'participate' through data collection and collective mechanisms to determine their perceptions towards poverty, vulnerability, coping mechanisms and government services to joint decision-making on policies and budgetary allocations (Norton and Stephens, 1995). A well-defined approach to community participation should be employed in formulating and articulation community-based needs. This kind of approach is fundamental to the consultation process necessary for any intervention aimed at improving the neighbourhood environment. A participatory approach is fundamental to the sustainable livelihoods conceptual framework.

³² See Knowles and Materu (1999) for examples of the decentralization reform process in four African countries (Uganda, Tanzania, Ghana and Ethiopia).

³³ See Bingen (2000) for clarification of why decentralization, de-concentration or devolution policies are not development panaceas.

As emphasised in the Habitat Agenda (UNCHS, 1997), a fundamental requisite is a regulatory framework that will provide institutional support for facilitating participation and partnership arrangements.

Partnerships and strategic alliances

Urban upgrading cuts across institutional and disciplinary boundaries and involves manifold stakeholders, including the public and private sectors, formal and informal landowners, NGOs, civil society organizations, CBOs and local residents. For upgrading interventions to be successful, the right partners have to be identified and involved in the process. Because of the varying levels of power and influence and distinct interests and priorities of the different stakeholders it is imperative that a unified and common vision is developed. The partnership-building process should allow each participant a voice.³⁴ One of the most important lessons learned from good and best practices is the contribution of “effective partnerships”—a concept that includes but goes beyond participation.³⁵

The way forward, as Burra and Patel (2001) maintain, is to build partnerships that make accessible to the urban poor land, infrastructure, housing and finance at affordable rates. There is need, therefore, for regulatory frameworks and institutional support to facilitate participation and partnership arrangements at all levels. But there is no single correct way to develop partnerships — the key is clarity about the local framework within which the various partners operate (DFID, 2001). The role of local authorities should thus be to create an appropriate enabling and regulatory framework, including effective urban planning to promote partnerships, regulate their performance and ensure an equitable distribution of resources and benefits.

Capacity building

A primary constraint to the wide-scale implementation of appropriate regulatory frameworks is the lack of knowledge about regulations and their implications. This applicable at both the level of urban poor residents and local authorities. Capacity building is thus imperative to gather fundamental information on the situation on the ground, particularly about poor people; disseminate key knowledge and information about proposed regulations and their implications for the livelihoods of urban poor women and men; and develop the skills required for flexible interpretation and implementation of regulation (Lall, 2001).

The capacity of urban poor people and their organizations to take the lead in their own development is influenced by regulatory and procedural processes, ranging from international to neighbourhood levels. The confidence of poor women and men thus needs to be developed to empower them to negotiate with multiple stakeholders in "a planning and approvals game that may have its regulatory boundaries set from many different angle" (McLeod, 2001a: 16).

There are seven areas identified by McLeod (2001a:16-17) where criteria that have a direct influence on the degree to which the poor can operate legitimately, as far as others are concerned, in urban upgrading and development. The capacity of the poor should be built so that they can have a say in these areas which are the following:

- Criteria for land provision
- Criteria for service provision
- Criteria for planning and building permissions
- Criteria for credit approval
- Criteria for service allocation
- Criteria for award of development contracts
- Criteria for maintenance contracts

³⁴ <http://www.local.gov.za/DCD/ledsummary/led03.html>

³⁵ See Petrella and You (1999) for examples.

Role of local authorities

Local authorities, in assessing the impact of regulatory frameworks on the improvement of informal settlements as an effective mechanism in urban poverty reduction, need to (Lowe and Schilderman: 2001:30):

- ◆ Recognize and understand the diversity of stakeholders residing and working in informal settlements, i.e., who and where they are; identify, through stakeholder analysis, who the key champions for change might be.
- ◆ Understand the livelihood strategies and priorities of informal settlement dwellers, the linkages between housing, infrastructure, social and human assets, vulnerability and income generating activities, whilst realizing that intra- and inter-household differences exist.
- ◆ Developing in depth understanding of which PIPs impact on the livelihoods of various stakeholder groups. This should include a real appreciation of how PIPs result in negative impacts, constrain poor people's options as well as offer potential benefits in support of poor women and men's livelihood priorities.
- ◆ Analyze the available options for people centred, participatory reform and the barriers to, and potential mechanisms for, achieving it.

Precedent setting

Effective involvement of organizations of the urban poor in the change process of regulatory frameworks may require considerable investments in terms of time and in the form of “demonstration” projects to convince the authorities of the workability of the proposed changes (McLeod, 2001a). The object should be to start small but boldly in order to produce quick demonstration effects and provide tried and tested solutions to some of the most pressing problems. As Burra and Patel (2001) emphasise, demonstration projects that reflect poor people's priorities can act as powerful exemplars of the benefits of reform.

Scaling up

Once precedents have been set, repeater projects can capitalise on proven solutions by applying them on a larger scale, and community-driven initiatives can be up-scaled to city-wide solutions. As Payne (1999b) affirms, individual projects can be used to test amendments to regulatory frameworks and provide feedback on outcomes, and these can then be incorporated on a larger scale.

Home-based enterprises

Informal settlements are wellsprings of entrepreneurial energy that can and must be tapped — they generate productive occupational opportunities and remunerative employment. Indeed, as Kellet and Tipple (2000) observe, the complex web of economic linkages that exist between housing and HBEs allows all but the most destitute to have access to shelter and eke out a living. There is need therefore to recognize and proactively integrate informal sector activities into the urban economy by removing discriminatory regulations and other impediments. UNCHS (Habitat) (1996b:9) suggests that local authorities need to:

- Review their development-control regulations in favour of home-based enterprises (HBEs) unless the operation of the enterprises contravenes health and safety requirements, involves hazardous or exploitative employment practises or infringes basic human rights; and
- Seek to develop a strategy of small-scale enterprise development providing advice and guidance, small loans for development and relocation opportunities where appropriate for HBEs.

Cities can also support HBEs through:

- Changing and/or interpreting the regulatory frameworks in order to allow HBEs;
- Provision of infrastructure services (electricity, telecommunications, water and sanitation); which would increase productivity and efficiency of home-based activities.³⁶

³⁶ http://www1.worldbank.org/hars/ucmp/UCMP/session3-4_policyframework.htm

Pro-poor regulatory reform will affect not only urban land management (legislation regarding land use, ownership and tenure) but also the productivity of micro- and small-scale enterprises (MSEs) in the informal sector (Wegelin, 1996), including HBEs. The progressive regularization of HBEs is more likely to take place in a positive environment where impediments to becoming legal status are reduced to a minimum, where the costs of gaining legality are not prohibitive, and where there are clear benefits to attaining legal status. There is need, therefore, to distinguish between regulations that are essential for public health and safety, for example, and those that are less critical and impede the operations of HBEs unnecessarily (Tipple, 2001).

Access to credit

Because of the problems of "asymmetrical information" and "lack of the comfort zone" explained by McLeod (2001a:12), there is urgent need to promote appropriate systems within finance institutions for delivery of effective services for poor women and men. A most important investment, therefore, is developing internal procedures and regulatory frameworks within banking and financial institutions that work for the poor.

Content of the proposed guidelines

Preliminary discussions on the content of proposed pro-poor regulatory guidelines identified, *inter alia*, the following concerns and issues:

Changing Context

- ◆ Worsening quality of political leadership
- ◆ Security of tenure
- ◆ Empowered communities
- ◆ Linkages / alignment to global campaigns
- ◆ Perceptions of poverty

Objective and principles

- ◆ Mainstreaming informal settlements into urban planning
- ◆ Effective consultation
- ◆ Simplification
- ◆ Inclusiveness
- ◆ Replicability
- ◆ Cost and sustainability

Focus

- ◆ New migrants
- ◆ Environment
- ◆ Infrastructure
- ◆ Regulatory reform and how to effect it
- ◆ Promotion of appropriate building materials and construction technologies
- ◆ Local authority capacity and participatory approaches
- ◆ Harmonization (local and national)
- ◆ Self-regulation
- ◆ Partnerships / changing roles
- ◆ Gender equity
- ◆ Access to finance: awareness; credit market linkages

Content

- ◆ Basic infrastructure
- ◆ Improved participatory planning
- ◆ Adoptive/flexible

- ◆ Relevant, city-wide / town-wide impact

Establishment of a body/bodies responsible for urban upgrading

That urban upgrading is an important component of governments' urban development strategies is incontrovertible. Upgrading can be facilitated by the establishment of an institutional framework, for which there are two main requirements: (i) effective arrangements to secure the delivery of the various physical components of upgrading (water supply, sanitation, drainage, roads, and street lights) in an integrated manner; and (ii) those involved in upgrading should be sensitized to the social situation, and be capable of integrating social factors arising from the upgrading into physical and administrative action (Majale, 1998). This should include politicians, professionals, urban managers and administrators, and relevant staff in public/facilitator agencies.

The integration of most of the functions in a single body will facilitate the requirement of sensitivity and concern, by bringing social aspects of upgrading into closer contact with technical functions. In this respect, the Andhra Pradesh State Urban Development and Housing Corporation (ASPUDHC) established in 1989 to cater for the development of urban areas with special emphasis on housing in slums and other areas occupied by poor sections of the society (Adusumilli (2001) can serve as a good model. An earlier example is the Slums and Shanty Division (SSD) formed as part of the Urban Development Authority in 1978. The latter was established "to promote integrated planning and implementation of economic, social and physical development areas as may be declared by the minister to be Urban Development Areas and for the matters concerned therewith or incidental there" (SEVANATHA, 2001:17)

In line with the principles of *subsidiarity*,³⁷ which are fast being adopted worldwide, Tipple (2001) proposes the creation of two bodies to be involved in urban upgrading. Development affecting the city as a whole or more than one neighbourhood should be the responsibility of the local planning authority. Development affecting major land uses, main and secondary roads, trunk and mains infrastructure, and generating super-local externalities, should be regulated by the existing planning authority, as is generally the case at present. At the other end of the scale, any development that is likely to generate no more than local externalities, such as changes of use and extensions to existing buildings, can be regulated at the local level. The body responsible at the local level will vary from one context to another, but where they exist, local ward committees, chiefs involved in administration, community development committees, etc., should be responsible for administering whatever regulations are deemed appropriate. If they are to support the system, it is imperative that they are part of the process to formulate appropriate regulatory guidelines for urban upgrading.

Political Will

Political will is essential for developing and effecting regulatory frameworks. Sohail *et al.* (2001) give the example of Pakistan where a more programmatic approach was adopted with clear political will backing the urban upgrading process. The predominantly non-donor driven process also reflected indigenous thinking.

Risk Mitigation

Adopting the SL approach supports an analysis of risk taking, management and mitigation by the urban poor linked to their perceptions and judgements of potential options and investments (McLeod, 2001a). A working knowledge of regulatory requirement can be important not only in risk mitigation, but also in assessing public sector resources or processes (Lowe and Schilderman, 2001).

Sustainability

For urban development to be socially, economically and institutionally sustainable, it is vital to review existing regulatory frameworks to assess the extent to which changes are necessary to meet the needs, resources, aspirations and priorities of urban poor communities.

³⁷ Subsidiarity is the passing of decision making power to the lowest appropriate level (Tipple, 2001).

CONCLUDING REMARKS

Rapid urbanization and accelerated urban population growth necessitate new considerations of the ways in which urban development is regulated and space, services and amenities are planned and managed so that the city and townscape provide a liveable and healthful environment.

Efforts to reduce urban poverty in the South will have a far greater impact and be more sustainable if backed by a supportive regulatory environment. What is required therefore is an agreed agenda with planned actions leading to policy, institutional and regulatory reform in the context of sustainable development.

The process of regulatory reform should:

- ◆ Take a *holistic* approach
- ◆ Be committed to *scaling-up*
- ◆ *Reinvest* in urban knowledge and capacity (build on existing successful initiatives with the communities themselves)
- ◆ Work through *partnerships* (of communities, CBOs/NGOs, municipalities, private sector, central government)

The review and reformulation of legal, fiscal and regulatory frameworks should respond to the special needs of people living in poverty. Pro-poor reform of policy and regulatory regimes for land, infrastructure and housing markets should remove impediments and disincentives to access for the poor. Pro-poor regulatory frameworks will eliminate inappropriate standards that increase costs, encourage entry of innovative technologies and small-scale and other competing suppliers, establish more equitable tariff and cost recovery systems, make subsidy policies better targeted and more effective, and facilitate active partnerships among local authorities, utilities and private investors, NGOs and communities to create pragmatic solutions responsive to the needs of the urban poor.

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